

Approved Feb. 14, 1989
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by Representative Susan Roenbaugh at
Chairperson

9:07 a.m./p.m. on February 7, 1989 in room 423-S of the Capitol.

All members were present ~~except~~

Committee staff present: Norman Furse, Revisor of Statutes Office
Raney Gilliland, Legislative Research Department
Lynn Holt, Legislative Research Department
Marjorie Brownlee, Committee Secretary

Conferees appearing before the committee: Larry Woodson, Director, Division of Inspections, Board of Agriculture
Jack Greenwell, Operations Manager, Mid-American Dairymen of Kansas City
Jeff Ryan, Corporate Manager, for a dairy operated for Mid-American Dairymen
Joe Lieber, Kansas Cooperative Council
Richard Barlow, Assistant Director of Laboratories, Board of Agriculture
Kathleen Willey, Laboratory Supervisor, Board of Agriculture.

Minutes for January 24, 25, 26, and 31 were presented to the Committee. Representative Bryant moved that the minutes be accepted as presented. Representative Freeman seconded the motion. The motion passed.

Chairman Susan Roenbaugh announced that hearings were open for HB 2131.

The first conferee was Larry Woodson, Director of the Division of Inspections for the Board of Agriculture. He recommended the legislation in order to provide the agency and the Dairy Commissioner with additional enforcement tools to address violations or deficiencies which are not of the catastrophic level. (ATTACHMENT 1)

The next conferee introduced was Jack Greenwell, Operations Manager for the Mid-American Dairymen of Kansas City. He expressed a concern for the naming of a \$1,000 maximum fine for violations. He suggested a fine of \$200 to \$250 would be adequate to get the job done.

Jeff Ryan, Corporate Manager of a dairy located in Springfield, Missouri, which operates for the Mid-American Dairymen, also wished to voice his opposition to the \$1,000 fine.

Joe Lieber, Kansas Cooperative Council, said he supports the bill but is opposed to the amount of the fine---\$1,000.

Following testimony, there was a question and answer session between the conferees and members of the Committee. The Chairman then closed the hearings on HB 2131.

Hearings were pronounced open for HB 2133 by the Chairman. The first conferee was Richard Barlow, Assistant Director of Laboratories. He stated that this bill would provide for an increase in the statutory maximum limitation established for fees charged

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS,
room 423-S Statehouse, at 9:07 a.m./~~p.m.~~ on February 7, 19 89

for tests and examinations of seeds by the Kansas State Board of Agriculture's Laboratory. As it presently stands 75% of the budget (\$764,000) is provided by fees and 25% comes from the General Fund. (ATTACHMENT 2)

Kathleen Willey, Laboratory Supervisor, from the State Seed Laboratory spoke briefly in explanation of Attachment 2. Several questions were answered by her for Committee Members.

Representative Ensminger was recognized by the Chair. He proposed some further refinements of the schedule presented by the Seed Laboratory. (ATTACHMENT 3) It was suggested that his concerns might be covered in the rules and regulations which would be set up by the Board of Agriculture.

The Chairman pronounced the hearings on HB 2131 were closed and the meeting was adjourned at 9:57 a.m.

The next meeting of the House Committee on Agriculture and Small Business will be on February 9, 1989.

PRESENTATION TO THE HOUSE COMMITTEE
ON
AGRICULTURE AND SMALL BUSINESS

FEBRUARY 7, 1989

GOOD MORNING MADAME CHAIRMAN, MEMBERS OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS. MY NAME IS LARRY WOODSON AND ACCOMPANYING ME TODAY IS MELVIN BROSE, DAIRY COMMISSIONER; AND KENNETH WILKE, CHIEF COUNSEL FOR THE AGENCY.

WE ARE HERE TODAY TO OFFER TESTIMONY ON HOUSE BILL 2131.

OUR ORIGINAL PURPOSE AND INTENT FOR RECOMMENDING CONSIDERATION OF THIS LEGISLATION WAS TO PROVIDE THE AGENCY AND THE DAIRY COMMISSIONER WITH ADDITIONAL ENFORCEMENT TOOLS TO ADDRESS VIOLATIONS OR DEFICIENCIES THAT ARE NOT OF THE CATASTROPHIC LEVEL AND THUS DO NOT REQUIRE TOTAL SUSPENSION OF PRODUCTION ACTIVITIES.

I WISH TO REITERATE THAT THE PASTEURIZED MILK ORDINANCE THAT GOVERNS GRADE A PRODUCTS AND USDA STANDARDS FOR MANUFACTURING MILK PROVIDE FOR SUSPENSION OF ACTIVITIES ANY TIME THERE ARE SUCCESSIVE INSTANCES OF THE SAME VIOLATION. THIS APPLIES VERY WELL IN INSTANCES OF FLAGRANT AND WILLFUL VIOLATIONS THAT MAY ENDANGER PUBLIC HEALTH, E.G. CONTAMINATION, ADULTERATION, OR UNSAFE DAIRY PRODUCTS. OUR INTEREST IS IN FINDING A METHOD TO ADDRESS DEFICIENCIES SUCH AS FLOOR SURFACES THAT NEED REPAIRING, SMALL OPENINGS AROUND DOORS AND WINDOWS,

Ag 5B
02-07-89

Attachment 1

UNCOVERED TRASH RECEPTACLES, OR UNKEPT OUTSIDE SURROUNDINGS.

SUSPENSION OF A PLANT OR BOTTLER, IF ENACTED, IMPACTS EVERYONE ... THE DAIRY PRODUCERS, THE RETAIL MARKETS, AND THE CONSUMER. WE BELIEVE THAT CIVIL PENALTIES FOR VIOLATIONS PROVIDES US WITH ENFORCEMENT TOOLS TO ACHIEVE CORRECTIVE ACTION WITHIN A MORE DESIRABLE TIME FRAME.

WE BELIEVE THAT THE BILL'S LANGUAGE ENCOMPASSES THE DAIRY MANUFACTURERS, BOTTLING PLANTS, PRODUCERS AND HAULERS. OUR PRIMARY INTEREST IS DIRECTED TOWARDS ONLY THE MANUFACTURING AND BOTTLING FACILITIES. FOR THIS REASON, WE WOULD ASK FOR AN AMENDMENT TO LIMIT THE APPLICATION OF CIVIL PENALTIES TO DAIRY MANUFACTURING PLANTS AND BOTTLING PLANTS.

CERTAINLY THE LANGUAGE OF THE PROPOSED BILL PERMITS THE SECRETARY OR HIS DULY AUTHORIZED AGENT THE ABILITY TO REVERSE OR MODIFY THE ORDER WHERE COMPLIANCE IS ACHIEVED OR WHERE CIRCUMSTANCES JUSTIFY MITIGATION. THE PROPOSED FINE SYSTEM IS NOT ADMINISTERED IN THE FIELD BY THE ON-SITE INSPECTOR.

WE APPRECIATE YOUR CONSIDERATION OF THIS PROPOSAL AND STAND FOR YOUR QUESTIONS.

THANK YOU.

HOUSE BILL No. 2131

By Committee on Agriculture and Small Business

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AN ACT concerning the state board of agriculture; providing civil penalties for violations of statutes relating to dairy products.

Be it enacted by the Legislature of the State of Kansas:

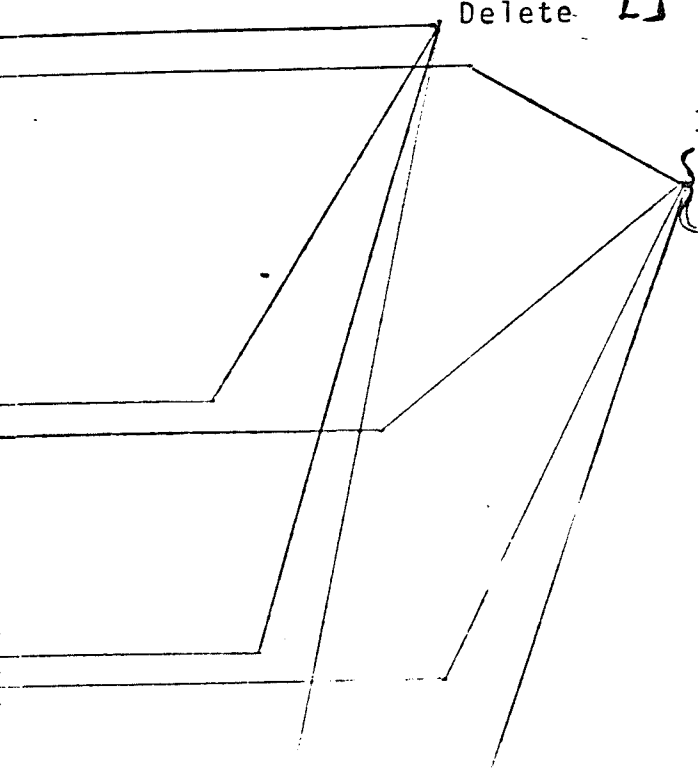
Section 1. (a) Any ~~person~~ who violates any provision of article 7 of chapter 65 of Kansas Statutes Annotated and amendments thereto or any rule and regulation promulgated thereunder, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in the amount fixed by rules and regulations of the state board of agriculture in an amount not less than \$100 nor more than \$1,000 for each violation and in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) A duly authorized agent of the secretary of the state board of agriculture, upon a finding that any ~~person~~ has violated any provision of article 7 of chapter 65 of Kansas Statutes Annotated and amendments thereto or any rule and regulation promulgated thereunder, may impose a civil penalty as provided in this section upon such person.

(c) No civil penalty shall be imposed pursuant to this section except upon the written order of the duly authorized agent of the secretary of the state board of agriculture to the ~~person~~ who committed the violation. Such order shall state the violation, the penalty to be imposed and the right of the person to appeal to the secretary. Any such ~~person~~, within 20 days after notification, may make written request to the secretary for a hearing in accordance with the provisions of the Kansas administrative procedure act. The secretary shall affirm, reverse or modify the order and shall specify the reasons therefor.

Delete []

Insert
Dairy manufacturing
plant



4 (d) Any ~~person~~ aggrieved by a final order of the secretary made
 45 under this section may appeal such order to the district court in the
 46 manner provided by the act for judicial review and civil enforcement
 47 of agency actions.

48 (e) Any civil penalty recovered pursuant to the provisions of this
 49 section shall be remitted to the state treasurer, deposited in the
 50 state treasury and credited to the ~~state general fund~~.

51 Sec. 2. This act shall take effect and be in force from and after
 52 its publication in the statute book.

Delete []
 Insert (Dairy manufacturing plant)

Insert (dairy division fee fund)

Insert (f) For the purposes of this section, the term "dairy manufacturing plant" shall have the meaning ascribed to that term in K.S.A.65-703

h-1

SEED EXAMINATION FEES

This bill would provide for an increase in the statutory maximum limitation established for fees charged for tests and examinations of seeds by the Kansas State Board of Agriculture's Laboratory. The increase would raise that maximum level from \$20.00 per test or examination to \$40.00 per test or examination. It is necessary for such an upward movement of the fee structure to make the Board of Agriculture's Laboratory competitive with other similar laboratories; and, to establish a more cost reflective level of charges for tests performed in the area of seed examination.

The State Seed Laboratory has been on a self-supporting basis; this increase in fees would help to continue that basis. From 1961 forward, no changes have been made in the limits allowed on fees for seed testing and examination.

We brought a sample of native grass with us today. It is this crop that will be most affected by this change. About 1000 native grass samples were analyzed last year; some of these samples can take up to 10 hours to examine. It is this time relationship which caused us to ask for an increase in the maximum level of \$40.00.

The Kansas Crop Improvement Laboratory's fees are equal to the Board of Agriculture's except for an hourly rate for native grass examination at \$12.00 per hour,

The Nebraska Department of Agriculture's fees are slightly higher, with an hourly rate for native grass.

Iowa State University Laboratory's are 30-40% higher, with an hourly rate for native grass.

South Dakota's Agriculture Laboratory's fees are 30% higher, with an hourly rate for native grass.

Colorado's Agriculture Laboratory's fees are 40-50% higher, and has an hourly rate for native grass.

Oklahoma's Agriculture Laboratory's fees are 40-50% lower.

Ag. SB
02-07-89

Proposed
SCHEDULE OF SEED TESTING CHARGES

<u>CROP</u>	<u>FULL TEST</u>		<u>PURITY</u>		<u>GERM</u>		<u>NOX. TEST</u>	
	<u>Present</u>	<u>Proposed</u>	<u>Present</u>	<u>Proposed</u>	<u>Present</u>	<u>Proposed</u>	<u>Present</u>	<u>Proposed</u>
Aus. Winter Peas	9.00	14.00	4.00	9.00	5.00		--	
Alfalfa	11.75	15.00	6.75	10.00	5.00		2.00	5.00
Agrotriticum	10.50	14.00	5.50	9.00	5.00		2.00	5.00
Barley	10.50	14.00	5.50	9.00	5.00		2.00	5.00
Bluestem (Big, Little Cauc.)	37.00	45.00	25.00	25.00	12.00	20.00	3.00	5.00
Bermuda & Bentgrass	14.50	17.00	9.50	12.00	5.00		3.00	5.00
Bluegrass, Redtop	14.50	17.00	9.50	12.00	5.00		3.00	5.00
Buffalograss	20.00	22.00	10.00	11.00	10.00	11.00	3.00	5.00
Bromegrass	16.00	18.00	10.00	12.00	6.00		3.00	5.00
Canarygrass	12.00	15.00	7.00	9.00	5.50	6.00	2.00	5.00
Clovers	11.75	15.00	6.75	10.00	5.00		2.00	5.00
Corn	--		--		5.00		--	
Cordgrass	16.00	19.00	10.00	13.00	6.00		2.00	5.00
Cowpeas	9.00	12.00	4.00	7.00	5.00		1.50	5.00
Dropseed	15.00	18.00	8.00	11.00	8.00		2.00	5.00
Fescue	13.00	15.00	8.00	10.00	5.00		3.00	5.00
Gramagrass	27.00	29.00	15.00	17.00	12.00		3.00	5.00
Gamagrass	12.25	17.00	4.25	9.00	8.00	13.00	--	
Indiangrass	37.00	45.00	25.00	25.00	12.00	20.00	3.00	5.00
Lespedeza	11.75	15.00	6.75	10.00	5.00		2.00	5.00
Lovegrass	15.00	18.00	8.00	11.00	8.00		2.00	5.00
Milletts	9.50	13.00	5.00	8.00	4.50	5.00	2.00	5.00
Oats	10.50	14.00	5.50	9.00	5.00		2.00	5.00
Orchardgrass	16.00	18.00	10.00	12.00	6.00		3.00	5.00
Rapegrass	11.75	16.00	6.75	10.00	5.00	6.00	1.75	5.00
Rye	10.50	14.00	5.50	9.00	5.00		2.00	5.00
Ryegrass	13.00	16.00	8.00	11.00	5.00		2.00	5.00
Sunflower	9.50	13.00	5.00	8.00	4.50	5.00	2.00	5.00
Sorghum	11.00	14.00	6.00	9.00	5.00		2.00	5.00
Soybeans	9.00	14.00	4.00	9.00	5.00		--	
Sundangrass	11.00	14.00	6.00	9.00	5.00		2.00	5.00
Switchgrass	14.00	17.00	7.00	10.00	7.00		2.00	5.00
Timothy	9.50	13.00	5.00	8.00	4.50	5.00	2.00	5.00
Vetch	9.00	12.00	4.00	7.00	5.00		2.00	5.00
Vetch (Crown)	11.75	15.00	6.75	10.00	5.00		2.00	5.00
Wheat	10.50	14.00	5.50	9.00	5.00		2.00	5.00
Wheatgrasses	18.50	20.00	12.00	13.00	6.50	7.00	3.00	5.00
Triticale	10.50	14.00	5.50	9.00	5.00		2.00	5.00

Sideoats Grama	37.00	45.00	25.00	25.00	12.00	20.00	3.00	5.00
Prairie Coneflower	11.75	15.00	6.75	10.00	5.00		1.75	5.00
Winterberry Euonymus	11.75	15.00	6.75	10.00	5.00		1.75	5.00
Vegetables	--		--		5.00		--	
Creeping Foxtail	--		--		7.00		--	
<u>PURITY AHEAD (All forms)</u>	1.00	5.00						
AA Test	5.00							
TZ Test	9.50	10.00						
All States Nox.	5.00							
Any State Nox.	1.00	5.00						
Canadian Exam Nox.	5.00							
Rush Charge	5.00							
<u>Caryopsis Count</u>								
Filled Seed Count	5.00							

Fees listed are maximum amounts for each operation.

CATEGORY 1

- Aus. Winter Peas
- Agrotriticum
- Barley
- * Corn
- Cowpeas
- Milletts
- Oats
- Rye
- Sunflower
- Sorghum
- Soybeans
- Sudangrass
- Timothy
- Triticale
- Vetch
- Wheat

CATEGORY 2

- Alfalfa
- Burmuda Bentgrass
- Bluegrass, Redtop
- Canarygrass
- Clovers
- Cordgrass
- Fescue
- Gamagrass
- Lespedeza
- Rapegrass
- Ryegrass
- Switchgrass
- Vetch (Crown)
- Prairie Coneflower
- Winterberry Euonymus

CATEGORY 3

- Bromegrass
- Dropseed
- Lovegrass
- Orchardgrass
- Wheatgrasses

OTHER

- Bluestem (Big, Little, Canc)...⁴
- A { Indiangrass 45°
- Sideoats Grama 45°
- B - Gramagrass 29°
- C - Buffalograss 22°

Category	Full test**	Germ Only	Purity Only	Nox. Only
1	14 ⁰⁰	7 ⁰⁰	9 ⁰⁰	5 ⁰⁰
2	17 ⁰⁰	10 ⁰⁰	12 ⁰⁰	5 ⁰⁰
3	20 ⁰⁰	13 ⁰⁰	15 ⁰⁰	5 ⁰⁰
A	45 ⁰⁰	20 ⁰⁰	25 ⁰⁰	5 ⁰⁰
B	29 ⁰⁰	12 ⁰⁰	17 ⁰⁰	5 ⁰⁰
C	22 ⁰⁰	11 ⁰⁰	11 ⁰⁰	5 ⁰⁰

* Corn = Germ test only 5⁰⁰

** Full Test = germination, purity, and noxious test

Ag. S.B.
02-07-89

Other Services

Purity Ahead (All forms) _____ 5.00

AA Test _____ 5.00

TZ Test _____ 10.00

All states Nox. _____ 5.00

Any state Nox _____ 5.00

Canadian Exam Nox. _____ 5.00

Rush Charge _____ 5.00

Caryopsis Count

Filled Seed Count _____ 5.00

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